

# EXHIBIT D

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**FOR FREEDOM OF THE PRESS**

1156 15th St. NW, Suite 1250  
Washington, D.C. 20005  
(202) 795-9300  
www.rcfp.org

Bruce D. Brown  
Executive Director  
bbrown@rcfp.org  
(202) 795-9301

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PAUL STEIGER  
*ProPublica*

*Affiliations appear only  
for purposes of identification.*

Adam A. Marshall, Esq.  
The Reporters Committee for Freedom of the Press  
1156 15<sup>th</sup> St. NW, Suite 1250  
Washington, DC 20005

Office of the Principal Legal Advisor  
Government Information Law Division  
Freedom of Information Act Appeal  
500 12<sup>th</sup> Street S.W. Stop 5900  
Washington, D.C. 20536-5900

USCIS FOIA/PA Appeals Office  
Freedom of Information Act Appeal  
150 Space Center Loop, Suite 500  
Lee's Summit, MO 64064-2139

July 17, 2018

Via U.S. Mail

**RE: FREEDOM OF INFORMATION ACT APPEAL, FOIA Request Nos.  
2018-ICFO-42786, NRC2018096051**

Dear FOIA Appeals Officers,

This letter constitutes an administrative appeal under the federal Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"), and is submitted on behalf of The National Press Club Journalism Institute ("NPCJI") and Kathy Kiely, its Press Freedom Fellow, regarding violations of FOIA by the U.S. Immigration and Customs Enforcement ("ICE") and U.S. Citizenship and Immigration Services ("USCIS").

## **I. Factual and Procedural History**

On May 18, 2018, NPCJI and Ms. Kiely submitted a FOIA request to ICE via email (hereinafter, the "Request"). A true and correct copy of the transmitting email and the Request is attached collectively as Exhibit A. The Request asked for access to and copies of two categories of records:

1. All records, including but not limited to emails, memos, text messages, and other communications, since January 1, 2017, that mention Emilio Gutierrez-Soto (aka Emilio Gutierrez Soto) or his son, Oscar Gutierrez-Soto (aka Oscar Gutierrez Soto);
2. All records of ICE facilities and/or personnel in El Paso, Texas, including but not limited to communications (e.g., emails, memos, text messages) and any mechanisms used to limit or block phone calls from detainees at ICE's El Paso facilities, since March 1, 2018, that mention or contain any of the following:
  - a. [REDACTED];
  - b. [REDACTED];
  - c. Eduardo Beckett;
  - d. Beckett Law Firm.

The Request included privacy waivers for Emilio Gutierrez-Soto, Oscar Gutierrez-Soto, and Eduardo Beckett. The Request also included a request for a fee benefit as representatives of the news media.

On June 11, 2018, I contacted ICE's FOIA office via email on behalf of NPCJI and Ms. Kiely to request a tracking number and an estimated date of completion. A true and correct copy of that email is attached hereto as Exhibit B. To date, I have not received a response from ICE's FOIA office.

On June 14, 2018, ICE's FOIA office acknowledged receipt of the Request to Ms. Kiely via email. A true and correct copy of ICE's June 14, 2018 email and its attached letter are attached hereto, collectively, as Exhibit C (hereinafter, the "ICE Acknowledgement"). The ICE Acknowledgement (1) granted the fee benefit request, (2) purported to invoke a 10-day extension under 5 U.S.C. § 552(a)(6)(B), and (3) stated that "portions of the information [sought] are under

the purview of the U.S. Citizenship and Immigration Services” and therefore “refer[ed the] request to the FOIA Officer for [USCIS], Jill Eggleston, for processing and direct response to you.” Ex. C.

By letter dated June 21, USCIS acknowledged the Request. A true and correct copy of that letter is attached hereto as Exhibit D (hereinafter, the “USCIS Acknowledgement”).<sup>1</sup> The USCIS Acknowledgement purported to “invoke as 10-day extension for your request pursuant to 5 U.S.C. § 552(a)(6)(B).” Ex. D. It did not acknowledge NPCJI and Ms. Kiely’s request for a fee benefit as representatives of the news media. *See id.*

As of the date of this administrative appeal no further communication has been received from ICE or USCIS regarding the Request, no determination has been made with respect to the Request, and no records responsive to the Request have been produced.

## II. Argument

### A. ICE and UCIS unlawfully failed to make a determination with respect to the Request within the statutory time limit.

Under FOIA, an agency is required to make a “determination” with respect to a non-expedited request within 20 business days of its receipt. 5 U.S.C. § 552(a)(6)(A)(i). To satisfy the “determination” requirement, the agency “must at least: (i) gather and review the documents; (ii) determine and communicate the scope of the documents it intends to produce and withhold, and the reasons for withholding any documents; and (iii) inform the requester that it can appeal whatever portion of the ‘determination’ is adverse.” *Citizens for Responsibility & Ethics in Wash. v. FEC*, 711 F.3d 180, 188 (D.C. Cir. 2013) (“CREW”).

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<sup>1</sup> Notwithstanding the USCIS Acknowledgement’s assertion that USCIS received the Request on June 21, 2018, the ICE Acknowledgement referring the Request to USCIS is dated June 14, 2018, and USCIS’s own FOIA status check website makes clear it received the Request on June 15, 2018. A true and correct copy of the status of the Request from the USCIS FOIA website, <https://www.uscis.gov/about-us/freedom-information-and-privacy-act-foia/foia-request-status-check-average-processing-times/check-status-foia-request>, is attached hereto as Exhibit E.



An agency may extend the deadline to provide a determination by up to 10 working days if both (1) “unusual circumstances” apply, and (2) the agency provides written notification to the requester that sets forth the unusual circumstances and provides “the date on which a determination is expected to be dispatched.” *Id.* § 552(a)(6)(B).

Here, both ICE and USCIS failed to make a “determination” with respect the Request within the 20 working-day deadline provided by FOIA, and therefore are in violation of the law. *See* 5 U.S.C. § 552(a)(6)(A). As of the date of this administrative appeal, it has been 40 working days since ICE received the Request, and at least 21 business days since USCIS received the Request as referred by ICE.<sup>2</sup> Although both ICE and USCIS purported to invoke a 10-working day extension pursuant to 5 U.S.C. § 552(a)(6)(B), neither provided a “date on which a determination is expected to be dispatched[,]” *id.*, as required by FOIA. *See* Exs. C, D. Accordingly, ICE’s deadline to provide a determination lapsed on June 18, 2018, and USCIS’s deadline lapsed on or before July 16, 2018. As there has been no communication from ICE or USCIS regarding the scope of the records they intend to produce or withhold or the reasons for the withholding of any records, both ICE and USCIS are in violation of their statutory duty under FOIA. *See* 5 U.S.C. § 552(a)(6)(A); *CREW*, 711 F.3d at 188.

**B. UCIS unlawfully failed to categorize NPCJI and Ms. Kiely as representatives of the news media.**

In the Request, NPCJI and Ms. Kiely set forth facts and argument in support of their categorization as representatives of the news media for the purpose of assessing fees. Ex. A. USCIS, however, appears to have ignored that information, stating in its acknowledgement letter that “[f]ees may be charged for searching for records sought at the respective clerical, professional, and/or managerial rates of \$4.00/\$7.00/\$10/25 per quarter hour . . . .” Ex. D.

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<sup>2</sup> *See supra* note 1.

USCIS provided no explanation, whatsoever, for why it did not categorize NPCJI and Ms. Kiely as representatives of the news media (which they clearly are), who cannot be assessed search fees. 5 U.S.C. § 552(a)(4)(A)(ii)(II). USCIS's failure to grant news media status to NPCJI and Ms. Kiely is unlawful and must be corrected on remand.

**C. Conclusion**

ICE and USCIS are in violation of FOIA for their failure to provide a determination with respect to the Request within the statutory deadline, and USCIS is additionally in violation for its failure to grant news media status to NPCJI and Ms. Kiely. Accordingly, I respectfully request that this matter be remanded with instructions to (1) immediately provide a determination with respect to the Request, and (2) for USCIS to grant news media status to NPCJI and Ms. Kiely for the purpose of assessing any fees related to the Request.

I look forward to your determination with respect to this appeal within twenty business days, as required by FOIA. 5 U.S.C. § 552(a)(6)(A)(ii). Thank you in advance for your assistance in this matter.

Sincerely,



Adam A. Marshall, Esq.  
Knight Foundation Litigation Attorney  
THE REPORTERS COMMITTEE FOR  
FREEDOM OF THE PRESS  
1156 15<sup>th</sup> St. NW, Suite 1250  
Washington, DC 20005  
amarshall@rcfp.org

cc: Katie Townsend  
Litigation Director  
THE REPORTERS COMMITTEE FOR  
FREEDOM OF THE PRESS  
ktownsend@rcfp.org

Kathy Kiely  
Press Freedom Fellow  
National Press Club Journalism Institute  
kkiely@press.org

# EXHIBIT A



Adam Marshall <amarshall@rcfp.org>

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## FOIA request

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Kathy Kiely <kkiely@press.org>

Fri, May 18, 2018 at 2:16 PM

To: "ice-foia@dhs.gov" <ice-foia@dhs.gov>

Cc: Adam Marshall <amarshall@rcfp.org>, "ktownsend@rcfp.org" <ktownsend@rcfp.org>

Attached is a FOIA request and accompanying documentation.

Please contact me if there is anything more we can do to expedite this process.

Many thanks.

Kathy Kiely  
*Press Freedom Fellow*  
National Press Club Journalism Institute  
202-256-4748 (cell, Signal, WhatsApp)

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 **FOI Document.pdf**  
1132K



# THE NATIONAL PRESS CLUB

## JOURNALISM INSTITUTE

The World's Leading Professional Organization For Journalists

Kathy Kiely  
Press Freedom Fellow  
National Press Club Journalism Institute  
529 14th St. NW  
Washington, DC 20045  
kkiely@press.org

U.S. Immigration and Customs Enforcement  
Freedom of Information Act Office  
Washington, D.C.  
ICE-FOIA@dhs.gov

### VIA EMAIL

### **RE: Freedom of Information Act Request**

Dear FOIA Officer,

This letter constitutes a request under the federal Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"), and is submitted on behalf of myself and the National Press Club Journalism Institute (the "Journalism Institute" or "NPCJI") to United States Immigration and Customs Enforcement ("ICE"). The Journalism Institute is the non-profit affiliate of the National Press Club, based in Washington, DC. See <https://www.press.org/institute>.

#### **I. Requested Records**

Pursuant to the FOIA, I and the Journalism Institute request access to and copies of the following:

1. All records, including but not limited to emails, memos, text messages, and other communications, since January 1, 2017, that mention Emilio Gutierrez-Soto (aka Emilio Gutierrez Soto) or his son, Oscar Gutierrez-Soto (aka Oscar Gutierrez Soto);
2. All records of ICE facilities and/or personnel in El Paso, Texas, including but not limited to communications (e.g., emails, memos, text messages) and any mechanisms used to limit or block phone calls from detainees at ICE's El Paso facilities, since March 1, 2018, that mention or contain any of the following:
  - a. [REDACTED]
  - b. [REDACTED]
  - c. Eduardo Beckett;
  - d. Beckett Law Firm.

In order to facilitate the location of responsive records, please note that Emilio Gutierrez-Soto (A-Number [REDACTED]) was born in Mexico on [REDACTED] and Oscar Gutierrez-Soto (A-Number [REDACTED]) was born in Mexico on [REDACTED].

Please also note that ICE has previously received privacy waivers from Emilio Gutierrez-Soto and Oscar Gutierrez-Soto authorizing the release of records to me, executed in the presence of their attorney, Eduardo Beckett. I have attached copies of those privacy waivers to this request, along with a privacy waiver from Eduardo Beckett.

Please provide records responsive to this request in electronic form, preferably by email to [kkiely@press.org](mailto:kkiely@press.org). If records cannot be sent via email, please send them via mail to the address above on a CD or DVD.

## **II. Fees and Fee Categorization**

For the purposes of assessing fees, please know that I and the Journalism Institute are representatives of the news media, and accordingly are only required to pay for direct duplication costs after the first 100 pages. 5 U.S.C. § 552(a)(4)(A). The Journalism Institute disseminates information to the public through multiple avenues, including through its biweekly newsletter, The Wire, events,<sup>1</sup> press releases,<sup>2</sup> the website of the National Press Club,<sup>3</sup> and social media.<sup>4</sup> I am a longtime journalist, a professor of journalism, and currently the NPCJ's Press Freedom Fellow. These records are not being sought for commercial purposes.

In the event that there are fees for responding to this request, I am willing to pay up to \$25. Please let me know in advance if fees for responding to this request will exceed that amount before proceeding.

## **III. Conclusion**

If this request is denied in whole or part, please justify all such denials by reference to specific exemptions and provide an explanation of why ICE "reasonably foresees that disclosure would harm an interest" protected by that exemption or why "disclosure is prohibited by law[.]" 5 U.S.C. § 552(a)(8). Please also ensure that all segregable portions of otherwise exempt material are released.

If you have any questions regarding this request, please feel free to contact me at [kkiely@press.org](mailto:kkiely@press.org) or 202-256-4748. Thank you in advance for your assistance.

Sincerely,

Kathy Kiely  
National Press Club Journalism Institute  
202-256-4748 (cell)  
[kkiely@press.org](mailto:kkiely@press.org)

cc: Katie Townsend, Esq.  
Adam A. Marshall, Esq.  
Reporters Committee for Freedom of the Press

<sup>1</sup> See, e.g., <https://www.press.org/events/2018-wpfd-dangerous-times>

<sup>2</sup> See <https://www.prnewswire.com/news/national-press-club>

<sup>3</sup> <https://www.press.org/>

<sup>4</sup> <https://twitter.com/NPCJInstitute>; <https://www.facebook.com/NPCJournalismInstitute/>

Freedom of Information Act Office

U.S. Department of Homeland Security  
500 12<sup>th</sup> St SW, Stop 5009  
Washington, DC 20536



U.S. Immigration  
and Customs  
Enforcement

2018-ICFO-19000

**AFFIRMATION/DECLARATION**

This is to affirm that

I, Eduardo Beckett  
(PRINT FULL NAME)

request access to records maintained by the Immigration and Customs  
Enfo

my date of birth is: \_\_\_\_\_, and

my place of birth was: \_\_\_\_\_

I understand that any knowingly or willfully seeking or obtaining access to records about  
another person under false pretenses is punishable by a fine of up to \$5,000. I also  
understand that any applicable fees must be paid by me.

I hereby authorize Kathy Keily ("NPC5I")  
(PRINT FULL NAME) access to my records.

I request that any located and disclosable records be forwarded to the following individual:

Kathy Keily ("NPC5I")  
(PRINT FULL NAME) at the following address:

Any and all records requested to include blocking phone number  
\_\_\_\_\_ between March 1, 2018 - April 15, 2018

I hereby declare or certify under penalty of perjury that the foregoing is true and correct.

Executed on 05/17/2018  
(DATE)

Eduardo Beckett

(SIGNATURE OF AFFIRMANT/DECLARANT).

PLEASE RETURN TO: U.S. Department of Homeland Security  
Immigration and Customs Enforcement  
500 12<sup>th</sup> Street, SW, Stop 5009, Washington, DC 20536-5009  
Via Facsimile: 202-732-4265;  
Via email: [ice-foia@dhs.gov](mailto:ice-foia@dhs.gov)



Freedom of Information Act Office

U.S. Department of Homeland Security  
500 12<sup>th</sup> St SW, Stop 5009  
Washington, DC 20536



U.S. Immigration  
and Customs  
Enforcement

2018-ICFO-19000

AFFIRMATION/DECLARATION

This is to affirm that

I, Emilio Gutierrez-Soto, A. No.  
(PRINT FULL NAME)

request access to records maintained by the Immigration and Customs  
Enforcement which pertain to me. My present address is:

my date of birth is: \_\_\_\_\_, and

my place of birth was: \_\_\_\_\_

I understand that any knowingly or willfully seeking or obtaining access to records about  
another person under false pretenses is punishable by a fine of up to \$5,000. I also  
understand that any applicable fees must be paid by me.

I hereby authorize Kathy Kiely  
(PRINT FULL NAME) access to my records.

I request that any located and disclosable records be forwarded to the following individual:

Kathy Kiely, Press Freedom Fellow  
(PRINT FULL NAME) at the following address:

529 14<sup>th</sup> St. NW, Washington, DC 20045

I hereby declare or certify under penalty of perjury that the foregoing is true and correct.

Executed on 02/13/18  
(DATE)

X Emilio Gutierrez Soto  
(SIGNATURE OF AFFIRMANT/DECLARANT)

PLEASE RETURN TO: U.S. Department of Homeland Security  
Immigration and Customs Enforcement  
500 12<sup>th</sup> Street, SW, Stop 5009, Washington, DC 20536-5009  
Via Facsimile: 202-732-4265;  
Via email: [ice-foia@dhs.gov](mailto:ice-foia@dhs.gov)



Freedom of Information Act Office

U.S. Department of Homeland Security  
500 12<sup>th</sup> St SW, Stop 5009  
Washington, DC 20536



U.S. Immigration  
and Customs  
Enforcement

2018-ICFO-19000

AFFIRMATION/DECLARATION

This is to affirm that

I, Oscar Gutierrez-Soto, A. No. [REDACTED]  
(PRINT FULL NAME)

request access to records maintained by the Immigration and Customs  
Enforcement which pertain to me. My present address is:

my date of birth is: [REDACTED], and

my place of birth was: [REDACTED]

I understand that any knowingly or willfully seeking or obtaining access to records about  
another person under false pretenses is punishable by a fine of up to \$5,000. I also  
understand that any applicable fees must be paid by me.

I hereby authorize Kathy Kiely access to my records.  
(PRINT FULL NAME)

I request that any located and disclosable records be forwarded to the following individual:

Kathy Kiely, Press Freedom Fellow at the following address:  
(PRINT FULL NAME)

529 14<sup>th</sup> St. NW, Washington, DC 20045

I hereby declare or certify under penalty of perjury that the foregoing is true and correct.

Executed on 02/12/18  
(DATE)

X Oscar Gutierrez  
(SIGNATURE OF AFFIRMANT/DECLARANT).

PLEASE RETURN TO: U.S. Department of Homeland Security  
Immigration and Customs Enforcement  
500 12<sup>th</sup> Street, SW, Stop 5009, Washington, DC 20536-5009  
Via Facsimile: 202-732-4265;  
Via email: [ice-foia@dhs.gov](mailto:ice-foia@dhs.gov)

# EXHIBIT B



Adam Marshall <amarshall@rcfp.org>

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## Request for Status Update on FOIA Request

1 message

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**Adam Marshall** <amarshall@rcfp.org>

Mon, Jun 11, 2018 at 3:02 PM

To: ice-foia@dhs.gov

Cc: Katie Townsend <ktownsend@rcfp.org>

To whom it may concern:

On May 18, 2018, my clients submitted the attached FOIA request to Immigration and Customs Enforcement ("ICE") via email. To date, they have not received a tracking number or any confirmation that the request was received by ICE.

If you could provide me with (1) a tracking number for this request and (2) an estimated date of completion, I would appreciate it.

Sincerely,  
Adam A. Marshall

**Adam A. Marshall** | Knight Foundation Litigation Attorney

Reporters Committee for Freedom of the Press

[amarshall@rcfp.org](mailto:amarshall@rcfp.org) | (202) 795-9308 | [GPG](#)



**FOI Document.pdf**

1132K

# EXHIBIT C



## ICE FOIA Request 2018-ICFO-42786

ice-foia@dhs.gov

Thu 6/14/2018 2:25 PM

To: Kathy Kiely &lt;kkiely@press.org&gt;;

 1 attachment

ICE Ack Letter (Transfer to USCIS).pdf;

June 14, 2018

KATHY KIELY  
PRESS FREEDOM FELLOW  
529 14TH ST NW  
WASHINGTON, DC 20045

RE: ICE FOIA Case Number 2018-ICFO-42786

Dear Ms. KIELY:

This acknowledges receipt of your June 07, 2018, Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), for all records, to include medical, pertaining to OSCAR GUTIERREZ SOTO, DOB: [REDACTED], COB: [REDACTED] (see request for specific details). Your request was received in this office on June 07, 2018.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the DHS FOIA regulations, 6 C.F.R. Part 5, ICE processes FOIA requests according to their order of receipt. Although ICE's goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10- day extension of this time period. As your request seeks numerous documents that will necessitate a thorough and wide-ranging search, ICE will invoke a 10-day extension for your request, as allowed by Title 5 U.S.C. § 552(a)(6)(B). If you care to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS Interim FOIA regulations, as they apply to media requesters. As a media requester, you will be charged 10 cents per page for duplication; the first 100 pages are free. We will construe the submission of your request as an agreement to pay up to \$25.00. You will be contacted before any further fees are accrued.

We have queried the appropriate program offices within ICE for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned reference number **2018-ICFO-42786**. Please refer to this identifier in any future correspondence. To check the status of an ICE FOIA/PA request, please visit <http://www.dhs.gov/foia-status>. Please note that to check the status of a request, you must enter the 2017-ICFO-XXXXX or 2018-ICFO-XXXXX tracking number. If you need any further assistance or would like to discuss any aspect of your request, please contact the FOIA office. You may send an e-mail to ice-foia@ice.dhs.gov, call toll free (866) 633-1182, or you may contact our FOIA Public Liaison, Fernando Pineiro, in the same manner. Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Regards,

ICE FOIA Office

Immigration and Customs Enforcement

Freedom of Information Act Office

500 12th Street, S.W., Stop 5009

Washington, D.C. 20536-5009

Telephone: 1-866-633-1182

Visit our FOIA website at [www.ice.gov/foia](http://www.ice.gov/foia)

U.S. Department of Homeland Security  
500 12<sup>th</sup> St., NW  
Washington, D.C. 20536



U.S. Immigration  
and Customs  
Enforcement

June 14, 2018

KATHY KIELY  
PRESS FREEDOM FELLOW  
529 14TH ST NW  
WASHINGTON, DC 20045

**RE: ICE FOIA Case Number 2018-ICFO-42786**

Dear Ms. KIELY:

This acknowledges receipt of your June 07, 2018, Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), for all records, to include medical, pertaining to OSCAR GUTIERREZ SOTO, DOB: [REDACTED] COB: [REDACTED] (see request for specific details). Your request was received in this office on June 07, 2018.

Upon initial review of your request, I have determined that portions of the information you are seeking are under the purview of the U.S. Citizenship and Immigration Services (USCIS), a DHS component. Therefore, I am referring your request to the FOIA Officer for U.S. Citizenship and Immigration Services (USCIS), Jill Eggleston, for processing and direct response to you. You may contact that office in writing at FOIA/PA Program, P.O. Box 648010, Lee's Summit, MO 64064-8010 or via telephone at 1-800-375-5283.

Your request has been assigned reference number **2018-ICFO-42786**. Please refer to this identifier in any future correspondence. To check the status of an ICE FOIA/PA request, please visit <http://www.dhs.gov/foia-status>. Please note that to check the status of a request, you must enter the 2018-ICFO-XXXXX tracking number. You may contact this office at (866) 633-1182. Our mailing address is 500 12th Street, S.W., Stop 5009, Washington, D.C. 20536-5009.

Sincerely,

*David F. Stadnicki /for*

Catrina M. Pavlik-Keenan  
FOIA Officer

# EXHIBIT D





**U.S. Citizenship  
and Immigration  
Services**

June 21, 2018

**NRC2018096051**

Kathy Kiely  
Press Freedom Fellow  
529 14th St NW  
Washington, DC 20045

Dear Kathy Kiely:

We received your request for information relating to Oscar Gutierrez Soto 2018-ICFO-42786 on June 21, 2018.

Your request is being handled under the provisions of the Freedom of Information Act (5 U.S.C. § 552). It has been assigned the following control number: NRC2018096051. Please cite this number in all future correspondence about your request.

We respond to requests on a first-in, first-out basis and on a multi-track system. Your request has been placed in the complex track (Track 2). You may wish to narrow your request to a specific document in order to be eligible for the faster track. To do so, please send a written request, identifying the specific document sought, to the address above. We will notify you if your request is placed in the simple track.

Consistent with 6 C.F.R. § 5.5(a) of the Department of Homeland Security (DHS) FOIA regulations, USCIS processes FOIA requests according to their order of receipt. Although USCIS' goal is to respond within 20 business days of receipt of your request, FOIA does permit a 10-day extension of this time period in certain circumstances. Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Additionally, due to the scope and nature of your request, USCIS will need to locate, compile, and review responsive records from multiple offices, both at headquarters and in the field. USCIS may also need to consult with another agency or other component of the Department of Homeland Security that have a substantial interest in the responsive information. Due to these unusual circumstances, USCIS will invoke a 10-day extension for your request pursuant to 5 U.S.C. § 552(a)(6)(B). Please contact our office if you would like to limit the scope of your request or to agree on a different timetable for the processing of your request. We will make every effort to comply with your request in a timely manner.

This office will be providing your records on a Compact Disc (CD) for use on your personal computer. The CD is readable on all computers through the use of Adobe Acrobat software. A version of Adobe Acrobat will be included on the CD. Your records can be viewed on your computer screen and can be printed onto paper. Only records 15 pages or more are eligible for CD printing. To request your responsive records on paper, please include your control number and write to the above address Attention: FOIA/PA Officer, or fax them to (816) 350-5785.

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In accordance with Department of Homeland Security Regulations (6 C.F.R. § 5.3(c)), your request is deemed to constitute an agreement to pay any fees that may be chargeable up to \$25.00. Fees may be charged for searching for records sought at the respective clerical, professional, and/or managerial rates of \$4.00/\$7.00/\$10.25 per quarter hour, and for duplication of copies at the rate of \$.10 per copy. The first 100 copies and two hours of search time are not charged, and the remaining combined charges for search and duplication must exceed \$14.00 before we will charge you any fees. Most requests do not require any fees; however, if fees in excess of \$25.00 are required, we will notify you beforehand.

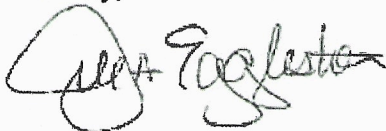
USCIS no longer collects Social Security Numbers in connection with FOIA or PA requests. When forwarding to us any documents related to your request, please ensure any Social Security Numbers on the documents are blanked out or removed.

The National Records Center (NRC) has the responsibility to ensure that personally identifiable information (PII) pertaining to U.S. Citizenship and Immigration Services (USCIS) clients is protected. In our efforts to safeguard this information, we may request that additional information be provided to facilitate and correctly identify records responsive to your request. Though submission of this information is voluntary, without this information, your request may be delayed while additional steps are taken to ensure the correct responsive records are located and processed. Further, if we are unable to positively identify the subject of the record we may be unable to provide records responsive to your FOIA request.

You may check the status of your FOIA request online, at [www.uscis.gov/FOIA](http://www.uscis.gov/FOIA). Click the "Check Status of Request" button in the middle of the web page or "FOIA Request Status Check & Average Processing Times" on the left side under "Freedom of Information and Privacy Act (FOIA)." Then click "FOIA Check Status of Request" at the bottom of the page and follow the instructions given. If you have any questions concerning your pending FOIA/PA request, or to check the status of a pending application or petition, please call The National Customer Service Center at 1-800-375-5283. Please be aware that the National Records Center no longer accepts FOIA/PA related questions directly by phone.

All FOIA/PA related requests, including address changes, must be submitted in writing and be signed by the requester. Please include the Control Number listed above on all correspondence with this office. Requests may be mailed to the FOIA/PA Officer at the PO Box listed at the top of the letterhead, emailed to [USCIS.FOIA@uscis.dhs.gov](mailto:USCIS.FOIA@uscis.dhs.gov), or sent by fax to (816) 350-5785. You may also submit FOIA/PA related questions to our email address at [FOIAPAQuestions@uscis.dhs.gov](mailto:FOIAPAQuestions@uscis.dhs.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Jill A. Eggleston". The signature is fluid and cursive, with the first name "Jill" and last name "Eggleston" clearly distinguishable.

Jill A. Eggleston  
Director, FOIA Operations

# EXHIBIT E





U.S. Citizenship and  
Immigration Services

## Check Status of FOIA Request

[Versión en español](#)

The Status of your USCIS FOIA request is now available online. Enter the control number that we provided after we received your request. The control number will begin with the letters NRC, COW, APP, etc.

If your request is pending, the status will indicate the position of your request relative to all pending USCIS requests in the same processing track.

If we processed and responded to your request within the past 6 months, you will see the date your request was processed.

Status information is updated daily.

### Current Average FOIA Request Processing Times

Please note that these times do not include the days required to scan the request into our processing system. (All listed times are in business days)

USCIS uses a three-track system to process FOIA requests for A-File material.

- Track One (67 days): Simple requests.
- Track Two (113 days): Complex inquiries that normally necessitate additional search and review time.
- Track Three (40 days): Requests by individuals scheduled for a hearing before an immigration judge.

USCIS uses a two-track system to process FOIA requests for non-A-File material.

- Track One (108 days)
- Track Two (147 days): Processing time impacted by sensitivity of records, volume of records and extent of review process.

USCIS uses a three-track system to process FOIA appeals.

- Track One (7 days)
- Track Two (13 days)
- Track Three (14 days)

**Enter your FOIA Control Number.**

NRC2018096051

Submit Status Check

Your request is currently number 43975 of 51772 pending requests in Track Two.  
Date received: 06/15/2018

Check performed on 07/16/2018 12:30:51 PM CDT  
Status Information is current as of: 07/16/2018

Last Reviewed/Updated: 07/09/2018